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FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY BOARD OF CALIFORNIA
SACRAMENTO, CA Sept. 12, 2012
BY [Signature] ANALYST

7
8 BEFORE THE
9 PHYSICAL THERAPY BOARD OF CALIFORNIA
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 1D 2012 72542

13 DANIEL WAZDATSKY

A C C U S A T I O N

14 P.O. Box 1138
15 Aptos, CA 95001

16 25490 Cole Street
17 Loma Linda, CA 92354

18 Physical Therapist Assistant
19 License No. AT 3176

20 Respondent.

21 Complainant alleges:

22 PARTIES

23 1. Rebecca Marco (Complainant) brings this Accusation solely in her official capacity
24 as the Executive Officer of the Physical Therapy Board of California, Department of Consumer
25 Affairs.

26 2. On or about September 15, 1993, the Physical Therapy Board of California issued
27 Physical Therapist Assistant license No. AT 3176 to Daniel Wazdatskey (Respondent). The
28 Physical Therapist Assistant license was in full force and effect at all times relevant to the charges
brought herein and will expire on September 30, 2012, unless renewed.

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COST RECOVERY

8. Section 2661.5 of the Code states:

“(a) In any order issued in resolution of a disciplinary proceeding before the board, the board may request the administrative law judge to direct any licensee found guilty of unprofessional conduct to pay to the board a sum not to exceed the actual and reasonable costs of the investigation and prosecution of the case.

“(b) The costs to be assessed shall be fixed by the administrative law judge and shall not in any event be increased by the board. When the board does not adopt a proposed decision and remands the case to an administrative law judge, the administrative law judge shall not increase the amount of the assessed costs specified in the proposed decision.

“(c) When the payment directed in an order for payment of costs is not made by the licensee, the board may enforce the order of payment by bringing an action in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licensee directed to pay costs.

“(d) In any judicial action for the recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

“(e) (1) Except as provided in paragraph (2), the board shall not renew or reinstate the license or approval of any person who has failed to pay all of the costs ordered under this section.

“(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license or approval of any person who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one year period for those unpaid costs.

“(f) All costs recovered under this section shall be deposited in the Physical Therapy Fund as a reimbursement in either the fiscal year in which the costs are actually recovered or the previous fiscal year, as the board may direct.”

1 FIRST CAUSE FOR DISCIPLINE

2 (Unprofessional Conduct: Sexual Misconduct/Gross Negligence)

3 9. Respondent is subject to disciplinary action for unprofessional conduct under Code
4 section 726 and/or section 2660(g) in that Respondent engaged in acts of sexual misconduct with
5 a patient and was grossly negligent in his care of the patient. The circumstances are as follows:

6 10. In early July 2012, E.P.¹ was a patient at Country Villa Watsonville East Nursing
7 Center, where she was seen by Respondent for physical therapy treatment.

8 11. Respondent engaged in sexual misconduct with E.P. on three separate occasions as
9 set forth below:

10 A. On the first occasion, Respondent went into the patient's room, sat on her bed,
11 and began to massage her feet. His hands then moved up her calf and thigh, then her inner thigh,
12 and then he rubbed her vagina over her diaper. Respondent told the patient that "you still need
13 it," and then walked out of the room.

14 B. On the second occasion, which occurred a day or two later, Respondent went to
15 the patient's room, sat on her bed, and began to massage her feet and calves. He then stood up
16 and rubbed her breast. He then leaned over the patient and placed his groin against her elbow.
17 The patient felt Respondent's erect penis through his pants.

18 C. On the third occasion, which occurred on or about July 6, 2012, Respondent
19 went to the patient's room and began rubbing her breast. He then removed his penis from his
20 pants and rubbed it with one hand while touching the patient's breast with his other hand.

21 12. Respondent's sexual misconduct, as set forth above, constitutes unprofessional
22 conduct in violation of Business and Professions Code sections 726 and/or 2660(g).

23 PRAYER

24 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
25 and that following the hearing, the Physical Therapy Board of California issue a decision:
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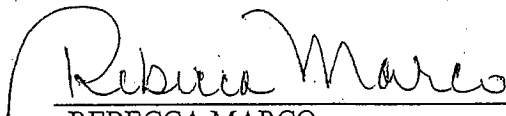
27 _____
28 ¹ The patient's name is abbreviated to protect her privacy.

1 1. Revoking or suspending Physical Therapist Assistant License No. AT 3176, issued to
2 Daniel Wazdatskey;

3 2. Ordering Daniel Wazdatskey to pay the Physical Therapy Board of California the
4 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
5 Professions Code section 2661.5; and

6 3. Taking such other and further action as deemed necessary and proper.
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10 DATED: September 12, 2012


REBECCA MARCO
Executive Officer
Physical Therapy Board of California
Department of Consumer Affairs
State of California
Complainant

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